

# *Washington Update*<sup>8</sup>

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## **State K-12 Funding Increases Will Soften the Blow of Federal Title I Cuts in Only a Limited Number of States**

With the first reduction in Title I funding for FY 2006 in over a decade, it would appear that increases in state K-12 budgets will soften the blow only in a limited number of states -- i.e., those 25+ states in which poverty funding for low-income students is high and included as weightings in state funding formulas and/or states with new expanded initiatives related to tutoring, mostly in the 23 states with exit exams. As one reviews governors' "state-of-the-state" addresses and proposed state budgets for FY 2006-07, the vast majority are proposing moderate to significant increases in teacher salaries, particularly in the 36 states where gubernatorial elections are scheduled for November. Only in those states where portions of teacher pay increases are contingent upon performance of students or otherwise are based upon merit will these increases result in greater demand for (and hence some increased purchases of) products which are proven to be effective in increasing student performance.

States which are most likely to "soften the blow" of cuts in Federal Title I funding will be those that have poverty-based funding weights or similar measures in their basic state aid formula.

In 20 states in 2001-02, the poverty weights in state formulae generated \$4.1 billion. In addition, 25 states provide poverty-based education funding through categorical grants to school districts, granting \$4.6 billion in 2001-02. Seven of the 25 states also provide funding through basic state aid formula. While the data that were used for this analysis was for 2001-02, the relative effects of the K-12 funding increases for next year should be similar to the effects in 2001-02 which was the period during which budget cuts were beginning to be required at the state level, culminating in the 2002-03 state-funded budget "bottom out." One major difference however, was that many of the sanctions and required earmarks for Title I as a result of NCLB implementation, would not occur until 2003-04. More of such funds are actually being used for earmarks -- 10 percent for professional development in schools identified for improvement for the first time and 20 percent for schools required to offer choice and supplemental educational services, etc.

In his seminal research for the Center on Budget and Policy Priorities (CBPP), Kevin Carey estimated the "poverty weighting" in state funding formulae and the amount of poverty funding per low-income student in 2001-02, as reproduced in an abridged version of Table 2 from the CBPP report. He estimated "poverty funding per low-income student" which included not only the state aid weighted formula amount

but also categorical programs of which there were more than 70 in 2001-02. As indicated in the right most column, “poverty weights” in states range from 52.5 percent in Massachusetts to zero percent at that time in states such as Alaska. The most recent issue of Quality Counts provides somewhat of an update taking into account several changes in state funding formulae and categorical program status and identifies states that provide poor districts more money than other districts in the state. These include Indiana, Oklahoma, Kansas, Nebraska, South Dakota, Wyoming, Utah, Minnesota, Nevada, and Alaska. This surrogate takes into account the degree of poverty “weighting” of the zeroes in CBPP Table 2 for Alaska, Nevada, and South Dakota which would be changed. For example, last year, Nevada appropriated initial funding for the state’s remedial program that should increase this year to about \$70 million which is being allocated to slightly more than 300 schools for the purchase of products and professional development that can be used in remedial classes in high poverty schools.

In 2001-02, some states provided relatively large amounts of compensatory education funding in the form of categorical grants; for example, the Michigan Chapter 39A program of about \$300 million was larger than the state’s Title I allocation. The Massachusetts Chapter 70 categorical program, funded at \$560 million at that time, was reduced somewhat over the next several years, but has received some increases for this year. Other states with large compensatory education programs include Minnesota, Louisiana,

Illinois, Connecticut, New Jersey, New York, Texas, Virginia, and North Carolina.

Another important change which has occurred since 2001 has been an increase in the number of states which have made graduation with a regular high school diploma contingent on performance on statewide exit or end-of-course exams. This includes 23 states now, with exit exam requirements expected in 6-8 additional states in the near future as such legislation is now being debated. What is more important and relevant here, however, is that the number of states requiring remediation for students failing promotion and/or exit exams and which are also providing state funding for remediation which has more than doubled, according to the Center for Education Policy survey last year (see Washington Update, August 30, 2005). More recent data collected for Quality Counts 2006 indicates that 19 states require students who fail exit or related exams to take remediation and 15 states actually provide state funding. The states that require both are Minnesota, Texas, Arizona, Alabama, North Carolina, New Jersey, Delaware, California, Georgia, Maryland, Florida, Indiana, South Carolina, and Louisiana. The majority of state budget proposals for K-12 funding for FY 2006-07 have called for expanded tutoring or remedial programs.

The CEP report also identified, in addition to state-financed remediation, other types of state supports for exit exam preparation and/or remediation as displayed in Table 8 from the CEP report, attached. As the report notes,

“Growth is especially notable in computer-based and online tools. Ten states now provide these resources compared with six states in 2004.” The CEP report also concludes, “Overall, the amount of remediation support provided by states appears to have increased substantially since our survey. In coming years if more states attach consequences to exams and achievement gaps persist, cash strapped states will face mounting pressure to appropriate more funding for effective remedial materials and programs.” Beyond remedial programs for students failing exit exams, some states have appropriated large amounts for remedial programs across all grade levels for students who fail end-of-year tests such as South Carolina, which appropriated \$120 million last year, and Florida, which allocated more than \$600 million across all grade levels. Given the recent flap in California about whether certain special education students should have to take the state’s exit exam and pass it to receive a high school diploma, the Governor has proposed more than a 100 percent increase to \$40 million in the amount of funding for tutoring and remedial programs, specifically targeting those students who will fail one or more components of the exit exam.

Several possible trends appear to be converging, pointing to an increased demand for programs which are effective in increasing student performance in mathematics. Many states have placed an increased priority on test preparation and remediation for students having difficulty passing exit exams at the middle school level. The difficulties students have in the area of

math appear to be even greater than in reading/language arts, even though in certain areas they are obviously related. Based upon 2004-05 data which we have reviewed, it would appear that almost half of the schools identified for improvement during the previous year were so identified because subgroups of middle school students failed to achieve proficiency in mathematics on state assessments. However, middle schools and high schools represent only 25-30 percent of all Title I schools which strongly suggests that more and more districts with middle schools identified for improvement, particularly for two consecutive years, are going to be looking for effective mathematics instructional programs.

And last, even though, last year, the White House was unable to convince Congress to fund the proposed “secondary initiative” for middle and high school mathematics reform for struggling students, Congress is more likely now to support new or expanded initiatives to improve mathematics instruction, particularly at the middle and high school levels, largely as a result of increased pressures from the business community (see January 2006 [TechMIS Washington Update](#)).

**TABLE 2: Total State Poverty-Based Education Funding Levels**

	Poverty Funding per Low Income Student	2001-2002 State/Local \$ Per Student	Implicit Poverty Weight
Alabama	\$197	\$6,357	3.1%
Alaska	\$0	\$8,920	0.0%
Arizona	\$121	\$6,172	2.0%
Arkansas	\$111	\$5,613	2.0%
California	\$403	\$7,303	5.5%
Colorado	\$1,739	\$6,733	25.8%
Connecticut	\$4,206	\$11,337	37.1%
Delaware	\$0	\$9,081	0.0%
Florida	\$0	\$6,856	0.0%
Georgia	\$146	\$7,895	1.9%
Idaho	\$0	\$6,242	0.0%
Illinois	\$1,658	\$7,445	22.3%
Indiana	\$1,728	\$8,606	20.1%
Iowa	\$196	\$7,466	2.6%
Kansas	\$1,164	\$7,364	15.8%
Kentucky	\$1,642	\$6,446	25.5%
Louisiana	\$1,232	\$6,267	19.7%
Maine	\$0	\$8,951	0.0%
Maryland	\$2,033	\$8,657	23.5%
Massachusetts	\$5,199	\$9,903	52.5%
Michigan	\$1,792	\$8,823	20.3%
Minnesota	\$3,075	\$8,590	35.8%
Mississippi	\$237	\$4,878	4.9%
Missouri	\$2,700	\$7,504	36.0%
Montana	\$0	\$6,702	0.0%
Nebraska	\$1,215	\$8,084	15.0%
Nevada	\$0	\$7,040	0.0%
New Hampshire	\$3,529	\$8,292	42.6%
New Jersey	\$3,732	\$11,684	31.9%
New Mexico	\$919	\$6,644	13.8%
New York	\$2,240	\$11,454	19.6%
North Carolina	\$910	\$6,220	14.6%
North Dakota	\$0	\$6,894	0.0%
Ohio	\$1,444	\$8,375	17.2%
Oklahoma	\$1,876	\$5,846	32.1%
Oregon	\$1,380	\$8,060	17.1%
Pennsylvania	\$0	\$9,330	0.0%
Rhode Island	\$2,516	\$9,915	25.4%
South Carolina	\$1,111	\$6,821	16.3%
South Dakota	\$0	\$6,428	0.0%
Tennessee	\$155	\$5,647	2.7%
Texas	\$1,979	\$7,159	27.7%
Utah	\$247	\$5,325	4.6%
Vermont	\$387	\$10,327	3.7%
Virginia	\$1,174	\$7,800	15.1%
Washington	\$574	\$7,499	7.7%
West Virginia	\$0	\$8,027	0.0%
Wisconsin	\$947	\$9,467	10.0%
Wyoming	\$252	\$8,412	3.0%
<b>Total</b>	<b>\$1,191</b>	<b>\$7,906</b>	<b>15.1%</b>

Source: Center on Budget and Policy Priorities

**Table 8 - State Supports for Student Preparation and Remediation**

State	Practice Tests/ Items	Computer-based Program	Study Guide	After-school Tutorial Program	Weekend Tutorial Program	Summer School	Other	None
Alabama								•
Alaska	•							
Arizona	•	•	•				•	
California	•		•					
Florida	•	•						
Georgia	•		•					
Idaho		•						
Indiana		•		•		•		
Louisiana	•	•	•	•	•	•	•	
Maryland							•	
Massachusetts								•
Minnesota								•
Mississippi	•	•	•				•	
Nevada	•	•	•				•	
New Jersey						•		
New Mexico								•
New York								•
North Carolina	•		•				•	
Ohio	•							
South Carolina								•
Tennessee	•						•	
Texas	•	•	•				•	
Utah	•	•						
Virginia	•	•		•	•	•	•	
Washington	•						•	
<b>Total for 2005</b>	<b>15</b>	<b>10</b>	<b>8</b>	<b>3</b>	<b>2</b>	<b>4</b>	<b>10</b>	<b>6</b>
Total for 2004	*	6	5	1	1	2	5	12

\*The 2004 survey did not include a category for practice tests or items.

Table reads: Arizona currently provides practice tests or items, computer-based programs, and study guides to students for exit exam preparation and remediation purposes.

Source: Center on Education Policy, based on information collected from state departments of education, July 2005.

## **Title I Budget Cut for FY 2006 and District Funding Allocation Uncertainties Strongly Suggest Firms Should Target Districts with Relatively Large SES, Choice, and Professional Development Earmarks**

Because Title I funds will likely be reduced slightly during FY 2006 and the amount of funds allocated to specific districts will become even more uncertain, firms with appropriate products and services should concentrate their sales effort, even more than in the past, on districts with funds earmarked for supplemental educational services, parent choice transportation, and/or staff development. Virtually all of the remaining non-earmarked Title I funds will be used to retain Title I teachers and/or aides, with the exception of districts that reduce significantly the number of Title I schools served, which is not likely. As explained below, the problems stem largely from the Title I formula which is predicated upon the assumption that Title I funds nationally will increase each year and the use of the most recent census data on poverty enrollment.

For the first time in a decade, Title I funds will have been reduced by the one percent across-the-board cut in the appropriation to make up for the \$1.6 billion intended allocation to Katrina-damaged schools and displaced students (this assumes the upcoming House vote will pass). The major “fly in the ointment,” according to Congressional Research Service staff, is various “hold

harmless” provisions affecting the four Title I components which essentially are designed to ensure that no district receives significantly less Title I funding for the coming year than it received during the current year. Nationwide, this will be almost impossible.

A provision in the Katrina Relief Bill attached to the 2006 Department of Defense appropriations requires that, for certain districts which have been damaged significantly in Louisiana, Alabama, Texas, and Mississippi, the “hold harmless” provision for 2006 would be 100 percent. For the remaining districts across the country the “hold harmless” provision would vary between 85 percent and 95 percent depending on a number of conditions the districts would have to meet.

Based on the most recent census data, if the preliminary allocation to a state shows a slight increase in Title I funding, the state must ensure that no district receives less than 85-95 percent of funding it received during the previous year. This means the state must allocate funds from districts receiving slight increases to those receiving more than 5-15 percent cuts. For some districts, the reallocation from districts with increases may not be enough to make up for the shortfall; hence, the state will have to reduce the four percent state set-aside for school improvement to make up for the difference. With the Comprehensive School Reform Demonstration Act being cut from \$210 million to \$8 million, states will no longer have any new CSRD money to be used for school improvement to

supplement the four percent set-aside. Some of the losing districts in such a state could be large urban districts whose increase will erode significantly due to “hold harmless” adjustments. An exception could be a district whose poverty rate using the new census count would go from 4.9 percent to 5 percent or more making available to it the “targeted” and “incentive” components of the Title I formula. This was the case in Fairfax County (Virginia) this year; the district’s preliminary Title I allocation increased almost 75 percent over last year’s allocation. However, in such cases, a significant portion of the increase will have been reallocated by the state to other districts receiving cuts due to “hold harmless” provisions.

If a state receives an overall reduction in its Title I allocation, then it is highly likely that the entire four percent set-aside for school improvement will disappear. Two years ago, the preliminary allocations indicated that ten states, including Massachusetts and Ohio, would receive moderate to significant reductions in Title I funding. As a result of pressures from Chairman John Boehner (R-OH) of the House Education and Workforce Committee, and Senator Ted Kennedy (D-MA), ranking Democrat on the Appropriations Committee, serious -- but eventually unsuccessful -- attempts were made to pass a supplemental appropriation.

Districts in these states coped with the situation by reducing the number of schools and/or students served with Title I funds by transferring funds from other NCLB Titles into Title I schools, particularly schoolwide programs, and/or

postponing purchases of products and services. At the same time, many of these districts had to allocate an increased amount of Title I funds for SES and parent choice options under the 20 percent requirement because of an increase in the number of schools identified for improvement for two consecutive years.

The best prospects to target for the remainder of this year and next year will be districts which will receive a “preliminary” increase in Title I allocations and which are located in states with at least some increases. If the one percent cut is applied proportionately to the four Title I funding components, about two-thirds of the absolute amount of cuts will be borne by 80-90 percent of the districts which receive only (or primarily) the “basic” and “concentration” component grants. Large urban districts which are the primary recipients of “targeted” and “incentive” grants will receive smaller percentage decreases and, if the poverty count under the new census data in these districts shows moderate increases, could receive an increase in preliminary allocations. These districts are also more likely to have a proportionately higher percentage of schools identified for improvement for one year or two years and therefore have to earmark ten percent for staff development and 20 percent for SES and parent choice transportation. Because of the lack of capacity in high-performing schools in these districts, a large portion of their 20 percent earmark for parent choice is not likely to be exercised by parents and, therefore, some of these funds may be allocated for SES. In a similar vein,

there will be pressures upon many districts which will have not spent the total 20 percent earmark for SES and/or transportation this school year to carry over as much funding as they can to next year. If districts under these pressures are located in Edflex states (Colorado, Delaware, Kansas, Massachusetts, Maryland, North Carolina, Oregon, Pennsylvania, Texas, and Vermont), these districts can receive automatic waivers to carry over more than 15 percent to soften the blow next year. For firms wishing to partner with districts that operate their own SES programs, priorities should be placed upon districts that have not been identified for improvement or that have received waivers to continue operating their SES programs even though they have been identified for improvement. Districts included in this "pilot program" include Chicago, Boston, New York, Memphis, Los Angeles, and other districts to be announced shortly. The Council of Great City Schools has assisted USED in negotiating waivers with its member districts.

One final word of caution, preliminary state and district Title I allocations, which might be available in March, may be "leaked to the press" or to other sources over this month. Please be advised that these allocations, for reasons noted above, are much more "preliminary" than in the past and that state reallocation determinations, according to several USED officials with whom we talked, could be significant and ongoing through the early summer. Please call Charles Blaschke directly if anyone has any questions.

## **New NCES Report on Student Enrollments, Staff, Schools, Charter Schools, and Other Topics by State Could Assist Firms in Identifying Priority Targets for Certain Products and Services**

The new NCES annual report on student, staff, schools, and school districts for school year 2003-04 could be extremely useful for firms with certain products and services in deciding what states and, in turn, entities to target. One cautionary note is that the data reported occurred during the second year of implementation of NCLB and some of the provisions in the Law had not been fully implemented by that time; and subsequently many states have obtained waivers which could affect the current status of some of the numbers reported.

Included in a one-page summary were some important selected aggregate findings including:

- Total student membership increased by 5.1 million or 12 percent between 1993 and 2003;
- Approximately 6 million students, or 14 percent of the total membership, had special education individualized education programs, which represents a higher percentage than had been previously reported to Congress by USED;



- English language learner services were provided to 3.8 million or 11 percent of all students;
- Almost 180,000 students age 19 or younger passed the GED test;
- Of all 6 million full-time equivalent staff positions in 2003-04, more than 3 million were teachers and 685,000 were teacher aides, accounting for 63 percent of all reported district personnel;
- Over 50,000 Title I-eligible schools existed accounting for about 50 percent of all students;
- Nearly 3,200 charter schools existed with about 42 percent administered directly by public school districts that also had non-charter schools;
- 82 percent of local education agencies were regular school districts while the remaining provided other services to districts or were state or Federally administered regional centers, charter schools, or other special districts.

For certain categories of data, certain states stood out as follows. The total number of alternative schools was about 4,700 with the following states having more than 100 such schools including California, Kentucky, Louisiana, Michigan, Minnesota, New York, Texas, Washington, and Wisconsin. The states with large numbers of districts with both

charter and non-charter schools and the number of these charter schools were California (205 districts with 429 charter schools), Colorado (41/96), Florida (39/258), Georgia (14/50), Kansas (13/17), New Mexico (13/34), Oregon (16/24), South Carolina (11/18), and Wisconsin (73/150). These numbers do not include charter school districts which are separate from the public school district.

States with large numbers of Title I schools with high percentages of all students enrolled in these schools included Alabama (655 schools/40 percent enrolled), Arizona (653/35 percent), Arkansas (468/35 percent), California (2,924/36 percent), District of Columbia (160/80 percent), Florida (1,350/35 percent), Georgia (862/35 percent), Illinois (1,014/26 percent), Kentucky (785/52 percent), Louisiana (800/47 percent), Mississippi (630/63 percent), New York (947/21 percent), North Carolina (888/30 percent), Ohio (1,000/21 percent), Texas (4,567/56 percent), and Washington (486/20 percent). In some states with many schoolwide programs, the number has declined somewhat in order to continue using teacher aides that are not “qualified.” However, as noted in a related [Washington Update](#) item, due to recent USED audit exceptions, an increasing number of states are likely to be providing even greater flexibility on “commingling” and not having to report on how funds are used in Title I schoolwide programs.

As a percentage of total staff, the range of instructional aides [in terms of full-time-equivalents (FTE)], varied

significantly across states, from 22 percent in Vermont to 6 percent in Alabama. Even though NCLB provisions require that all aides involved in providing instruction have to pass a state test or otherwise be found to be “highly-qualified,” this provision has not been enforced to any degree. Most of the focus of enforcement by USED had been on highly-qualified teachers, for which the deadline has been extended for one year. As a result, there still could be numerous opportunities for firms with staff development or assessment products which could be used with instructional aides. Note that the numbers of aides by state noted below are FTEs and, in many cases, districts may have as many as three aides working two hours each per day which could increase the number of participants in such staff development efforts. States with the largest number of FTE instructional aides were California (69,000), Florida (29,000), Georgia (24,000), Illinois (33,000), Indiana (18,000), Massachusetts (18,000), Michigan (25,000), New Jersey (24,000), New York (53,000), North Carolina (27,000), Pennsylvania (24,000), Texas (58,000).

State-by-state data are also presented on the number and percentage of students with IEPs, those receiving ELL services or migrant services, and the number of students eligible for free and reduced price meals. States in which 15 percent or more students have IEPs include Alabama (17 percent), District of Columbia (17 percent), Florida (15 percent), Illinois (15 percent), Indiana (17 percent), Kentucky (15 percent), Massachusetts (15 percent), Missouri

(15 percent), New Jersey (15 percent), Rhode Island (21 percent), South Carolina (15 percent), Vermont (15 percent), and Wyoming (15 percent). States with the highest percentage of students receiving ELL services include Alaska (15 percent), Arizona (17 percent), California (25 percent), Colorado (13 percent), Nevada (18 percent), New Mexico (17 percent), Texas (15 percent). More than 580,000 students received migrant services during the school year; states with large numbers of migrant students served include California (230,000), Colorado (19,000), Florida (43,000), Kentucky (14,000), Nebraska (9,000), North Carolina (15,000), Oregon (20,000), Texas (113,000).

For the first time, concerted effort was undertaken to identify the number of students 19 or younger who successfully passed the General Education Development (GED) test in 2002-03. The numbers below may change as NCLB provisions are not supposed to allow states to report successful GED takers to be counted as high school graduates. However, on a state-by-state basis, some exceptions through waivers have been provided to individual states. States reporting 5,000 or more GED test passers in 2002-03 included California (9,000), Florida (14,000), Georgia (8,000), Illinois (6,000), New York (10,000), Pennsylvania (6,000), Tennessee (5,500), Texas (15,000), Virginia (5,600), Washington (5,300).

The report number is NCES 2006-307 which can be downloaded at the NCES website, [www.nces.ed.gov](http://www.nces.ed.gov).

**If Passed By the House, the Academic Competitiveness Grants Program Designed by the Senate to Encourage More Students to Enroll in Math and Science Post-Secondary Courses, Could Impact Local and State Prerogatives in Designing/Selecting High School Curriculum, Possibly Creating an Increased Demand for Rigorous Distance Learning Courses**

Similar to the last three months of closed-door negotiations leading to the passage of No Child Left Behind four years ago, the Senate overnight, again behind closed doors with little or no bipartisan consultation, passed the Academic Competitiveness Grants Program as part of the Budget Bill which still must be formally passed by the House. As reported in Inside Higher Ed News Alerts (January 24, 2006), most higher education officials applaud the goal of enticing more students from low-income families into science, math, and engineering. However, “They overwhelmingly believe the program is fatally flawed in conception and design, in part because elements of the program were crafted in mere days without any meaningful involvement from experts in the field,” also a criticism of the final version of NCLB passed four years ago. However, a potentially greater impact could be felt within K-12, particularly among many high schools as the supplemental incentives of \$750-\$1,300 grants for low-income college freshmen

and sophomores, would only be available to those graduates who have completed a “rigorous secondary school program of study.” As Sam Dillon reported in The New York Times (January 22), “It leaves it up to the Secretary of Education to define rigorous, giving her a new foothold in matters of high school curriculum.” His article also includes a statement by Terry Hartle, Senior Vice President of the American Council on Education, who said the new program “involves the Federal government in curricular manners in a way that opens a new chapter in education history...this particular plan has the potential to turn the Department of Education into a national school board.”

As The New York Times article notes, this new legislation is modeled on the Texas Scholars program which the Administration proposed a year ago for national implementation and was able to convince Senate Majority Leader Frist (R-TN) to include as part of this legislation. Under that program in Texas, a “rigorous course of study” includes four years of English, 3½ years of social studies, two years of foreign language, and a year each of algebra, geometry, advanced algebra, biology, chemistry, and physics. The relatively new Center for State Scholars, funded by USED, has spread the Texas Scholars curriculum to about 300 school districts in 15 participating states. If the new bill is passed by the House, almost \$800 million in new grant money would be distributed to approximately 500,000 students this Fall if it can be determined that such enrolling college freshmen or sophomores completed a “rigorous

secondary school program of study.” As implied in The New York Times, one can conclude that the Department is likely to provide Non-Regulatory Guidance which will be based upon the Administration’s interpretation of what was passed by Congress and included in the Law.

These patterns, similar to those four years ago with No Child Left Behind, are a portent of the future as it is likely that the curriculum recommended for selection as a “rigorous secondary school program of study” will be very similar, if not identical, to the curriculum modeled on the Texas Scholars program. Without question, low-income students who are eligible for Pell grants who wish to receive supplemental grants, will be incentivized to go to high schools that have “rigorous courses of studies,” perhaps similar to those participating in the nationwide Texas Scholars program. Certainly, this is consistent with the Administration’s philosophy of encouraging choice. According to Quality Counts, 44 states have “limited” or “statewide” public school open enrollment policies. Grass roots pressures on high schools to offer more rigorous courses of study could create a demand for online or distance learning delivered courses, where they cannot (for financial or personnel reasons) offer such courses (e.g., in rural districts).

As with NCLB, one can expect critics not only to challenge the right of the Secretary of Education to determine what constitutes a rigorous program of study, but also whether this is another unfunded Federal mandate, more subtle because of the grass roots nature of the

incentives bringing pressures on high schools. Post-secondary officials, noted in the Inside Higher Ed article, “The Gift Colleges Don’t Want,” question the philosophical basis of including the initiative as part of the Pell grant program which had evolved over time as a “needs-based financial aid primarily for low-income students.” Under this proposed legislation, as critics note, student receipt of Federal needs assessment aid would be contingent on a student’s academic performance and other merit-based measures; when students enroll in post-secondary institutions to continue receiving funds in subsequent years they would have to maintain a 3.0 grade point average. Ed Elmendorf, Senior Vice President, American Association of State Colleges and Universities, stated that the program’s design “turns into more of a merit-based program aimed at people who are already destined to go to college and not one aimed at truly bringing people who are have-nots into scientific and other fields in a way that is meaningful.” The existing version would also exclude private school students, whose participation under No Child Left Behind is a priority of the Administration, by stating that the curriculum must be “established by a state or local education agency and recognized by the Secretary of Education.”

The Academic Competitiveness Program undoubtedly will be one of the pillars of the proposed Administration’s math, science, and engineering initiatives. As Secretary Spellings stated during the fourth anniversary speech of NCLB, “Global competition has changed the

rules of the game. A quality education once desirable is now essential. High school graduates must have the skills to compete in college, the workforce, and the world, so high schools must be held accountable for results and students must be offered more rigorous coursework with a strong emphasis on math and science.” In an interview with the Washington Post (January 24), when asked if the President’s proposed initiatives last year to expand NCLB into high schools were dead, Secretary Spellings replied “Heck no, are you kidding me? The need is more acute than ever.” She indicated she wanted schools to “really challenge them and say this is what real grownups do, real college students do this, and this is what matters.”

### **Two Resources Should Assist Firms in Positioning Products and Services for Use in Prereferral Interventions Under the “Early Intervening Services” Provision of IDEA**

Two resources should assist firms which are attempting to get their share of the potential \$1.5 billion of IDEA funds allocated for Early Intervening Services in positioning products and services pending publication of final IDEA regulations, at the earliest, this summer. One resource is a report published in 2002 by the Council for Exceptional Children and the National Alliance of Black School Educators entitled “The Prereferral Intervention Process; An Administrator’s Guide” which was funded by the Office of Special

Education Programs within the USED. The overall purpose of the guide was to address the issue of over-representation of African American and other minority students in special education programs which was documented that same year in a report by the National Academy of Sciences entitled “Minority Students in Special and Gifted Education.” The NAS study documented the over-representation or disproportionality beginning with data collected since 1982 and underscored the need for preventative approaches such as prereferral interventions. The CEC/NABSE document notes that more than 30 states at that time (2002) required or strongly recommended that districts develop teams responsible for providing high-quality interventions, including staff development, to ensure that students are not placed in special education due to the lack of quality instruction in regular education programs.

The CEC document recommends several functions or activities which should be included in prereferral intervention processes such as those intended to:

- “Document difficulties the student may be having with instruction and determine possible reasons for the problem.
- Provide and document classroom modifications and/or other strategies.
- Assess interventions to ensure that they are appropriate and successful.

- Monitor the student’s progress for a significant period of time.
- Identify students for whom the learning and/or behavioral difficulty persists in spite of suggested interventions.”

The CEC/NABSE guide emphasizes that administrators should monitor the effectiveness of prereferral interventions and that records should be kept that document: (a) initial learning concerns; (b) interventions implemented; (c) length of time that each intervention was attempted; and (d) outcomes of each intervention.

One can assume that many large urban districts with large minority enrollments had already begun to implement many of the recommended processes to be used in prereferral intervention strategies prior to the IDEA reauthorization in 2004, which specifically called for Early Intervening Services. Hence, one way to position products and services is to align them directly with the recommended processes where they apply. Many districts will be looking for components which can improve the effectiveness of existing activities currently conducted by district intervention teams. On the other hand, where over-representation of minorities or “disproportionality” continues to be a problem, districts may be looking for a total system which facilitates all of the above processes, such as an instructional management system or an integrated learning system based program.

The second document is “The Savvy Teacher’s Guide: Reading Interventions

That Work” developed by Jim Wright, first published in July 2001. In the introduction, Wright notes, “The great majority of the interventions described in this manual were selected because they had been cited as effective in the recent National Reading Panel (2000) report, a comprehensive meta-analysis of successful reading strategies. All interventions presented here are research-based.” Unlike the CEC/NABSE guide which addresses administrative processes for implementing prereferral interventions, “The Savvy Teacher’s Guide” focuses on specific interventions that have proven to be effective, such as techniques to “promote error correction,” to “promote reading fluency,” and to “build text comprehension.” For numerous topics, the guide includes lesson outlines for teachers to follow, suggested scripts, tips, and alternative ways of presenting materials. In addition to the teacher’s guide on reading interventions that work, the website ([www.interventioncentral.org](http://www.interventioncentral.org)) includes updated resources on such topics as Response To Intervention and bully prevention. Many of the documents available through the website identify research findings and researchers or entities that were cited in the preamble to the draft IDEA regulations which identified research-based intervention practices (see June 30, 2005 TechMIS Special Report). For firms that have little supporting research findings on the effectiveness of product components or services which could constitute parts of an overall early intervention strategy, one could present evidence of how its products are aligned or correlated to proven practices and

show how such products can assist in implementing such practices. As reported in Education Week (November 30), Wright's website receives more than 200,000 page reviews monthly. As with the CEC/NABSE document, in positioning products, one should also consider referencing citations, practices, techniques, identified on the Wright website which is continuously being updated.

### **USED Placing Higher Priority on Title I Monitoring; Audit Findings in a Number of States Over the Last Two Years Suggest Areas Where Opportunities May Increase**

In addition to the USED Office of Inspector General which conducts audits of specific state implementation issues and special investigations (e.g., Reading First USED/State negotiations), the Office responsible for Title I has also conducted 29 state monitoring visits since 2003 and has found numerous audit exceptions which could suggest opportunities which could surface in certain states. As we have noted over the last several years, USED has been very selective in deciding which NCLB provisions receive a higher enforcement priority based on USED's "interpretation," which is usually reflected in Non-Regulatory Guidance rather than the Law or regulations (e.g., whether a district identified for improvement can continue to provide its own SES tutoring program). Below, we identify some of the areas in which

specific audit exceptions and/or problems have been identified during USED monitoring visits and which have officially been included in audit reports. Beginning in 2003 through 2005, 29 states have been audited with up to 75 percent of the audited states having been found to have audit exceptions on certain issues.

One provision included in the previous Title I reauthorization was that a schoolwide program (i.e., a school with 40 percent or more poverty enrollment) could combine or commingle with Title I funds other Federal program funds, with the exception of IDEA, to increase the academic performance of all children in such schools. Under NCLB, greater flexibility was provided to allow, under certain conditions, a portion of IDEA funds to be commingled in schoolwide programs and, perhaps more importantly, not to require the school to report how all commingled funds were used. Under the "50 percent transfer provision," districts could transfer a portion of funds from other Titles into Title I schoolwide programs, which many did. On one hand, many firms targeted Title I schoolwide programs because of the possibility of increased funding. On the other hand, many superintendents used commingled Federal funds to make up for shortfalls in local or state revenues. Around 2003, the USED audit team announced an interpretation -- while conducting the Missouri audit --- namely, that in a schoolwide program, the district must combine or commingle all Federal funds with Title I rather than merely be allowed to do so at their option. In 2003-2004, the following states were

found to be in violation of this interpretation: California, Minnesota, Michigan, Maine, Nebraska, Massachusetts, Rhode Island, Connecticut, and Missouri. A personal discussion with Missouri State Superintendent King confirmed the USED interpretation and audit exception. A year later, similar problems and/or audit exceptions were found in Indiana, North Carolina, Texas, Colorado, Idaho, Arizona, and Florida. In light of these audit findings, one might reasonably expect increased flexibility in the use of Federal funds in schoolwide programs and reduced pressures to use such funds to make up for shortfalls in state funding as virtually all states will be increasing funding at the K-12 level this year. New USED guidance on schoolwide programs is expected soon.

Another important area which could point to opportunities relates to the use of unspent earmarks for transportation and SES which, over the last several years, has created opportunities for district purchases of products and services, particularly staff development. In 2003-2004, we estimated that the amount of such funds spent before June 30, 2004 was between \$600 and \$800 million. Several provisions which were the focus of onsite monitoring audits included the following: supplemental educational services; public school choice; and parent notification and involvement. The latter could provide opportunities for firms with products that help districts provide notifications about parent choice transfer and/or supplemental educational services options. Based on an interview with

Jackie Jackson, Director of USED Title I office, as reported in Title I Report (February 2006), audit priorities include district use of funds earmarked for the Title I “reserve” at the district level which includes ten percent for professional development for schools identified for improvement for the first time and 20 percent for choice-related transportation and supplemental educational services. The article notes, “For example, in addition to showing that set-asides for choice-related transportation and SES have been correctly calculated, LEAs will have to provide evidence that they have fully met the parental demand for these services before reallocating those funds to other activities.” States where audit exceptions were noted in all three areas (SES, parent choice transportation, and parent notification) included Colorado, Florida, Illinois, and Indiana during the 2004-2005 audit year. States with one or two audit exceptions in these areas included Arizona, New Mexico, Texas, North Carolina, Pennsylvania, Arizona, Alabama, North Dakota, Idaho, and Florida. For many districts in these states which do wish to notify parents of SES and parent choice transportation options in a timely manner, and to document this notification process, the demand for technology and other tools which can facilitate the timely parent notification processes should be greater in the future as states bring greater pressures on districts to get into compliance in these areas.

A related focus of state monitoring has also addressed state and district “carryover” provisions. Over the last decade, the policy on “carryover” has



been that a district could carry over more than 15 percent of Title I funds to the next year only once every three years without a waiver from the state (or USED in the case of an SEA). An exception was made in 2003 during the first year of implementation of the parent choice and SES provisions due to the lateness of test data being available to identify schools for improvement by the state. In that policy statement, former Secretary Paige noted that districts could carry over more than 15 percent for that year as long as such unused SES and parent choice earmarks would be used for similar purposes the next year. The question was whether carried over unspent earmarked monies could be applied to the 10 percent or 20 percent earmarked the next year or whether such funds would be in addition to the 10 and 20 percent earmarks from next year's funds. Districts in ten states which have Ed-Flex status automatically can get a waiver to carry over more than 15 percent more than once every three years and certain states, such as Texas, have allowed districts to carry over 20-40 percent from one year to the next

because of the late allocations of the majority of Title I funds (particularly to urban districts) in mid-March, two months before the end of school.

In light of the small overall reduction in Title I funds for FY 2006 and the fact that over 80 percent of districts receiving Title I funds will experience a reduction next school year, there will be additional pressures on the part of many districts to carry over unspent Title I funds to next year to "soften the blow" of budget cuts so they can retain current Title I teachers and aides. Overall, the amount of unspent earmarked Title I funds that could be used to purchase products and services by June 30 deadline will not be as great as it was several years ago. On the other hand, exceptions could be those districts in which schools are identified for the first time and parents do not wish to have their children transferred to other schools, resulting in unspent funds for transportation.